

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER M. MONGIELLO,

Plaintiff,

-against-

HSBC BANK USA NA, as Trustee for the LMT  
2006-6 Trust Fund, aka HSBC BANK USA NA  
as Trustee for the Lehman Mortgage Trust  
Mortgage Pass-Through Certificates, Series  
2006-6; PHH MORTGAGE; PHH  
CORPORATION,

Defendants.

No. 24-CV-2291 (KMK)

ORDER OF SERVICE

KENNETH M. KARAS, United States District Judge:

Plaintiff, who is appearing pro se, brings this action asserting claims under the Real Estate Settlement Practices Act (“RESPA”), 12 U.S.C. § 2601 et seq., and N.Y. Real. Prop. Acts. Law § 1501, in connection with real property in New Rochelle, NY. By order dated April 2, 2024, the Court granted Plaintiff’s request to proceed in forma pauperis (“IFP”), that is, without prepayment of fees. (*See* Dkt. No. 6.)

I. Discussion

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.<sup>1</sup> *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all

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<sup>1</sup> Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within ninety days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have effected service until the Court reviewed the complaint and ordered that any summonses be issued. The Court therefore extends the time to serve until ninety days after the date any summonses issue.

process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (explaining that courts must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendants HSBC Bank USA NA, as Trustee for the LMT 2006-6 Trust Fund, PHH Mortgage, and PHH Corporation through the U.S. Marshals Service, the Clerk of Court is respectfully instructed to fill out a U.S. Marshals Service Process Receipt and Return form (USM-285 form) for each Defendant. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon Defendants.

If the complaint is not served within ninety days after the date summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

## II. Conclusion

The Clerk of Court is respectfully directed to mail an information package to Plaintiff. The Clerk of Court is further instructed to issue summonses for Defendants HSBC Bank USA NA, as Trustee for the LMT 2006-6 Trust Fund; PHH Mortgage; and PHH Corporation; complete the USM-285 forms with the addresses for Defendants; and deliver to the U.S. Marshals Service all of the documents necessary to effect service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an

appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

Plaintiff consents to electronic service of court documents. (*See* Dkt. No. 4.)

SO ORDERED.

Dated: April 17, 2024  
White Plains, New York

A handwritten signature in black ink, appearing to read 'KMK', is positioned above a horizontal line.

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KENNETH M. KARAS  
United States District Judge

**DEFENDANTS AND SERVICE ADDRESSES**

1. HSBC Bank USA NA, as Trustee for the LMT 2006-6 Trust Fund  
452 Fifth Avenue  
New York, NY 10018
2. PHH Mortgage  
Corporation Service Company  
80 State Street  
Albany, NY 12207- 2543
3. PHH Corporation  
Corporation Service Company  
80 State Street  
Albany, NY 12207- 2543